



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



298532

SEP 27 2002

SPECIAL NOTICE LETTER
URGENT LEGAL MATTER
PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF

UT/Hamilton Sundstrand
c/o: Victoria M. Haines, Esq.
4747 Harrison Avenue - Box 7002
Rockford, Illinois 61125-7002

Re: Special Notice Letter for the Southeast Rockford Groundwater Contamination
Superfund Site (SERGC)-Source Area 9/10 in Rockford, Winnebago County,
Illinois

Dear Ms. Haines:

This letter follows the combined general and special notice letter that the U.S. Environmental Protection Agency ("EPA") sent to UT/Hamilton Sundstrand on June 20, 2002 in connection with Source Area 9/10 of the SERGC Site ("the Site"), located in Rockford, Illinois. In that letter, EPA notified you of your potential responsibility under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "Superfund"), 42 U.S.C. § 9607(a), for the cleanup of the Site, including all costs incurred by the EPA in responding to releases at the Site. EPA is now contacting UT/Hamilton Sundstrand in an attempt to resolve your responsibility at the Site.

Background

Based on an extensive review of records related to the release and/or disposal of hazardous substances at the Site, EPA identified UT/Hamilton Sundstrand as the potentially responsible party ("PRP") that contributed hazardous substances to the Site. Under the federal Superfund law, UT/Hamilton Sundstrand is responsible for the costs of cleaning up the Site. EPA has selected a cleanup approach (formally known as a remedial action) for the Site, which is described in a document called a Record of Decision ("ROD") issued by EPA on June 11, 2002.

Special Notice and Negotiation Moratorium

EPA has determined that use of the special notice procedures set forth in Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), may facilitate a settlement between UT/Hamilton Sundstrand and EPA for implementation of the response action. Under Section 122(e), this letter triggers a sixty (60)-day moratorium on certain EPA response activities at the Site. During this 60-day moratorium, EPA will not begin response action at the Site. However, EPA reserves the right to

take action at the Site at any time should a significant threat to the human health or the environment arise. Pursuant to Section 122(f)(1)(F) of CERCLA, 42 U.S.C. § 9622(f)(1)(F), EPA has notified the state of Illinois of this matter. The state of Illinois has elected to participate and be a party to the case.

During this 60-day period, UT/Hamilton Sundstrand is invited to participate in formal negotiations with EPA in an effort to reach a settlement to conduct or finance the response action at the Site. The 60-day negotiation period ends on November 26, 2007. The 60-day negotiation moratorium will be extended for an additional sixty (60) days if the PRP provides EPA with a "good faith offer" to conduct or finance the response action. If EPA determines that your proposal is not a "good faith offer," you will be notified in writing of EPA's decision to end the moratorium. If the moratorium is extended for an additional 60 days, negotiations will conclude on January 25, 2008. If settlement is reached between EPA and the PRP within the 120-day negotiation moratorium, the settlement will be embodied in a Consent Decree for Remedial Action. When approved by EPA and the U.S. Department of Justice ("DOJ"), the Consent Decree will then be lodged in federal court.

If a "good faith offer" is not received within sixty (60) days, or a timely settlement cannot be reached, EPA may take appropriate action at the Site, which may include either of the following options: (1) EPA may fund the remedial action and pursue a cost recovery claim under 107 of CERCLA against UT/Hamilton Sundstrand; or (2) EPA may issue a Unilateral Administrative Order ("UAO") to UT/Hamilton Sundstrand under Section 106(a) of CERCLA, 42 U.S.C. § 9606, requiring you to perform the work described in the RA Statement of Work (SOW). If the recipient of a UAO refuses to comply with the UAO, EPA may pursue civil litigation against the recipient to require compliance.

Good Faith Offer

A proposed Consent Decree is enclosed to assist you in developing a "good faith offer."¹ As indicated, the 60-day negotiation moratorium triggered by this letter is extended for 60 days if the PRP submits a "good faith offer" to EPA. A "good faith offer" to conduct or finance the remedial action is a written proposal that demonstrates your qualifications and willingness to perform such work and includes the following elements:

- A statement of your willingness and financial ability to implement the requirements of the RA SOW and proposed Consent Decree and that provides a sufficient basis for further negotiation;

¹ This draft Consent Decree is not currently binding on EPA and is subject to revision and approval by EPA and DOJ. It is based on the model RD/RA Consent Decree (May 2001), which is available on the Internet at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/mod-rdra-cd.pdf>.

- A demonstration of your technical capability to carry out the remedial action, including identification of the firm(s) that may actually conduct the work or a description of the process that will be undertaken to select the firm(s);
- A detailed statement of work or work plan identifying how you intend to proceed with the remedial action;
- A statement of your willingness to reimburse EPA for costs EPA will incur in overseeing your implementation of the remedial action;
- A response to the proposed Consent Decree. If your offer contemplates modifications to the Consent Decree, please make revisions or edits to the Consent Decree and submit a version showing your proposed modifications to it;
- The name, address, and phone number of the party who will represent you in negotiations; and
- A redline/strikeout version of the draft CD in Microsoft Word.

Administrative Record

In accordance with Section 113 of CERCLA, 42 U.S.C. § 9613, EPA has established an Administrative Record containing the documents that serve as the basis for EPA's selection of the appropriate response action for the Site. This Administrative Record is located at the Rock River Branch, Rockford Public Library, 3128 S. 11th Street, Rockford, Illinois and is available to the public for inspection and comment. The Administrative Record is also available for inspection and comment at the Superfund Records Center, EPA Region 5, 77 West Jackson Blvd, Chicago, IL 60604. You may wish to review the Administrative Record to assist you in responding to this letter, but your review should not delay such response beyond the 60-day period provided by CERCLA.

PRP Response and EPA Contact Person

You are encouraged to contact EPA by October 15, 2007 to indicate your willingness to participate in future negotiations concerning this Site. If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the Site, and that you have declined any involvement in performing the response activities.

Your response to this Special Notice Letter, including written proposals to perform the remedial action selected for the Site, should be sent to:

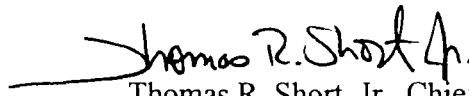
U.S. Environmental Protection Agency
Russell Hart, RPM
Mail Code SR-6J
77 West Jackson Blvd.
Chicago, IL 60604
(312) 886-4844

The factual and legal discussions in this letter are intended solely to provide notice and information, and such discussions are not to be construed as a final EPA position on any matter set forth herein. Due to the seriousness of the environmental and legal problems posed by the conditions at the Site, EPA urges that you give immediate attention and prompt response to this letter.

If you have any questions regarding the technical aspects of this letter, please contact Russ Hart, Remedial Project Manager, at (312) 886-4844. If you have an attorney handling your legal matters, please direct his or her questions to Tom Turner, Assistant Regional Counsel, at (312) 886-6613.

My staff and I look forward to working with you during the coming months.

Sincerely,


Thomas R. Short, Jr., Chief
Remedial Response Branch #2

Enclosures

cc: Illinois EPA/Illinois AG Office
Natural Resources Trustee